HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.6253 of 2002

Date: 11.07.2007

Between:

K. Srinivas Goud

....Petitioner

and

The Government of A.P., represented by its Secretary, Excise Department and others

....Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.6253 of 2002

O R D E R:

The petitioner is a licencee under the TFT scheme for a toddy shop at Boregaon Village, Nizambad District. A case was registered against him on 29.7.1998 on the ground that he had adulterated the toddy with 'diazepam'. In view of this, the licence of the petitioner was cancelled. Subsequently, the court of learned Additional Sessions Judge, Nizamabad, which tried the case against the petitioner, acquitted him. In view of this development, the petitioner submitted an application on 31.12.2001 to the 1st respondent with a prayer to renew his licence.

Through proceedings dated 5.1.2002, the 2nd respondent refused to accede to the request of the petitioner by observing that the departmental action is independent and separate from the proceedings in a criminal case. The same is challenged in this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

The licence of the petitioner was cancelled on the ground that he adulterated toddy with 'diazepam'. The record does not disclose that the petitioner had challenged the said order. In addition to cancellation of the licence, the department has also initiated prosecution against the petitioner, which has resulted in acquittal. On the basis of the acquittal, the petitioner approached the 2nd respondent with a request to renew his licence.

This court would have examined the matter in detail, but for the fact that the petitioner had an effective alternative remedy by way of an appeal under Section 63 of the A.P. Excise Act, 1968 before the Deputy Commissioner of Excise, Nizamabad. The appellate authority would be in a better position to appreciate the matter with reference to the relevant facts and law.

The writ petition is disposed of leaving it open to the petitioner to avail the remedy of appeal. If the appeal is presented within 4 weeks from today, the appellate authority shall entertain the same without raising any objection as to limitation. There shall be no order as to costs.

L.NARASIMHA REDDY, J

11th July, 2007.
cvm